EXHIBIT 6

Federal Communications Commission Study
"When Being No. 1 Is Not Enough:
The Impact of Advertising Practices On Minority-
Owned & Minority-Formatted Broadcast Stations,"

Attached are Pertinent Parts of Study Plus
Appendix A: Overview of Media Planning

Civil Rights Forum on communications policy

When Being No. 1 Is Not Enough:

The Impact of Advertising Practices On Minority-Owned & Minority-Formatted Broadcast Stations

Kofi Asiedu Ofori
Principal Investigator

submitted to the
Office of Communications Business Opportunities
Federal Communications Commission
Washington, D.C.

Synopsis

As part of its mandate to identify and eliminate market entry barriers for small businesses under Section 257 of the Telecommunications Act of 1996, the Federal Communications Commission chartered this study to investigate practices in the advertising industry that pose potential barriers to competition in the broadcast marketplace. The study focuses on practices called "no Urban/Spanish dictates" (*i.e.* the practice of not advertising on stations that target programming to ethnic/racial minorities) and "minority discounts" (*i.e.* the practice of paying minority-formatted radio stations less than what is paid to general market stations with comparable audience size). The study consists of a qualitative and a quantitative analysis of these practices.

Based upon comparisons of nationwide data, the study indicates that stations that target programming to minority listeners are unable to earn as much revenue per listener as stations that air general market programming. The quantitative analysis also suggests that minority-owned radio stations earn less revenues per listener than majority broadcasters that own a comparable number of stations nationwide.

These disparities in advertising performance may be attributed to a variety of factors including economic

efficiencies derived from common ownership, assessments of listener income and spending patterns, or ethnic/racial stereotypes that influence the media buying process. As a preliminary investigation, it was beyond the scope of this study to determine in quantitative terms the degree to which each of these factors may explain these disparities. Further statistical research should be undertaken to find the answer to this question. Anecdotal data collected by the study suggest that in certain instances, the media buying process is guided by ethnic/racial stereotyping, underestimations of disposable income, the desire to control product image, unfounded fears of pilferage, etc. Factors such as these form part of the basis for "no Urban/Spanish dictates"and "minority discounts" as practiced by advertisers and/or ad agencies.

As preliminary findings, the anecdotal and quantitative evidence suggests that certain practices in the advertising industry undermine marketplace competition and First Amendment principles favoring diversity of viewpoint. The study recommends further research that is sufficiently funded to fully examine these preliminary findings. The study also recommends that the federal government, based upon subsequent research and public comment, develop a policy statement on advertising practices and issue an executive order prohibiting federal agencies from contracting with ad agencies that engage in unfair or discriminatory advertising practices. With regard to the private sector, broadcasters, advertisers, and ad agencies should adopt a voluntary code of conduct that prohibits "no Urban/Spanish dictates"and "minority discounts" and that promotes a broad and diverse range of programming for all Americans.

Key words: advertising and discrimination; advertising and minorities; advertising and minority radio programming; small business competition and radio advertising.

Study Highlights

Findings:

A. An analysis based upon 1996 data for 3,745 radio stations indicated that:

- Stations that target programming to minority listeners earn less revenue per listener than stations that air general market programming.
- Minority-owned radio stations earn less revenue per listener than majority broadcasters that own a comparable number of stations nationwide.

B. Minority radio broadcasters responding to the study survey provided the following estimates of the magnitude and impact of "no Urban/Spanish dictates" and "minority discounts:"

- Ninety-one percent indicated that they had encountered "dictates" not to buy advertisements on their radio stations.
- Efforts to overcome "dictates" with market research that justifies ads on minority-formatted stations were most commonly met with no response or no recission of the dictate by advertisers or ad agencies.
- Survey respondents estimated that sixty-one percent of the advertisements purchased on their stations were discounted. The average amount of the discount was estimated to be 59 percent.
- Survey respondents estimated that "no Urban/Spanish dictates" and "minority discounts" reduce their revenues by an average of 63%.
- Forty-four percent estimated that "no Urban/Spanish dictates" and "minority discounts" interfere with their ability to raise capital and to acquire minority-formatted stations.

- Forty-four percent estimated that "no Urban/Spanish dictates" and "minority discounts," detract from the value of minority-formatted stations when they are being sold.

Conclusions:

- "No Urban/Spanish dictates" and "minority discounts" constitute barriers to competition because they detract from the amount of revenue earned per listener, and thus hinder a broadcaster's ability to attract investment capital, and to produce high quality news, information and entertainment programming in response to the needs of listeners.
- Most radio stations that air minority-formatted programming are adversely affected by advertising practices directed against minority listeners. Minority-owned stations, however, are disproportionately affected because 75% of them air programming targeted to minority listeners, compared to 8% for majority broadcasters.
- To the extent that minority formatted stations are unable to obtain advertising, their ability to serve the needs of listeners is impeded. The interest of all Americans, particularly minorities, in a broad and diverse range of informational and entertainment programming is undermined by advertising practices directed against minority consumers. Hence, "no Urban/Spanish dictates" and "minority discounts," undermine competition and detract from the First Amendment goal of diversity of viewpoint.

Recommendations:

- Subsequent research should endeavor to quantify the causal relationship between advertising practices and disparities in the advertising performance of minority-formatted and general market stations, and minority and majority-owned stations controlling for various factors such as ownership size, audience income, and market location.
- The Federal Communications Commission and the Federal Trade Commission should assemble a joint task force for the purpose of adopting a policy statement on acceptable advertising practices.
- Based upon the findings of subsequent research, the federal government should decide whether to issue an executive order that prohibits federal agencies from contracting with advertising agencies that practice "no Urban/Spanish dictates" and "minority discounts," or that otherwise fail to comply with the policy statement of the joint task force.
- The advertising and broadcast industries should adopt a code of conduct that requires buying decisions to be based upon market research and not flawed stereotypical assumptions. "No Urban/Spanish dictates" and "minority discounts" should be prohibited. Broadcasters should be required to prominently disclose whether the market research they use in conjunction with sales promotion has been prepared by a service that has been accredited by the Media Ratings Council. In instances where a non-accredited market research service is used, broadcasters should be required by the FCC to show cause why they do not use a service that is currently accredited by the Media Ratings Council.

Comparison of Minority and Major Broadcasters by Format

(All figures are averages. Currency in thousands)

(Number of Stations)	'96 Nat Rev	# Nat. Stat.	'96 Stat. Rev.	Power Ratio
General Formats	$129,059	42.5	$2,202	1.16
Majority Owned - All (3293)	$130,497	43	$2,214	1.16
Majority Owned - Small (2,288)	$13,040	7.4	$1,410	1.16
Minority Owned - All (39)	$7,630	7.4	$1,237	0.85
Minority Targeted Formats	$86,125	26.3	$1,958	0.91
Majority Owned - All (297)	$116,574	34.8	$2,052	0.95
Majority Owned - Small (193)	$7,387	4.9	$1,038	0.99
Minority Owned - All (116)	$8,164	4.4	$1,717	0.82

Source: "**When Being No. 1 Is Not Enough:** The Impact of Advertising Practices On Minority-Owned & Minority-Formatted Broadcast Stations." (page 79) *Civil Rights Forum on Communications Policy.*

I. Introduction & Summary

A. The Impetus for this Study

This study stems from a Congressional mandate given to the Federal Communications Commission ("The Commission" or the "FCC") to initiate "a proceeding for the purpose of identifying and eliminating...market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunication services...."[1] Pursuant to that mandate, the Commission issued a Notice of Inquiry seeking comments on the nature of market entry barriers faced by small businesses.[2] The Commission also held a public forum in 1996 to identify barriers to competition and to formulate strategies to overcome them.[3]

At the hearing, witnesses testified before the Commission regarding practices within the advertising industry that were alleged to inhibit the ability of minority broadcasters to generate advertising revenues. James Winston, Executive Director of the National Association of Black-Owned Broadcasters ("NABOB"), testified that advertisers and ad agencies often issued instructions to media buyers not to purchase advertisements on urban-formatted[4] radio stations.[5] Commonly referred to as "no Urban dictates," the practice is also frequently used in connection with programming targeted to the Hispanic audience.[6] Mr. Winston's testimony was supported by the comments of Jeffrey Cullers, President of Vince Cullers Advertising Agency.[7]

Broadcasters serving the minority community reported many examples of these practices over a long period. They stated that "no Urban dictates" are often founded upon stereotypical perceptions about minority consumers. According to NABOB, minority station salespeople soliciting an advertisement from the Beef Council were told that the Council was not going to buy advertising time

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[1] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat 56 (1996), 47 U.S.C. § 257(a).

[2] Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Business (Market Entry Barriers Notice of Inquiry), 11 FCC Rcd 6280 (1996).

[3] *Forum on Small Business Market Entry Barriers, ("Market Entry Barriers Forum")*, Federal Communications Commission, September 24, 1996. *See* FCC Public Notice 64975, released September 5, 1996, announcing the forum's panels.

[4] Urban is a radio music format targeted to predominantly Black audiences.

[5] Testimony of James Winston, (NABOB) and Vince Cullers (Vince Cullers Advertising Agency), note 3, *supra.*

[6] Interview with Carey Davis, General Manager, WSKQ-FM and WPAT-FM, (Spanish Broadcasting System), page 8 (references to interviews refer to transcribed interviews available in volume III of the study and on file with the FCC Library and the FCC's Office of Communications Business Opportunities, unless noted as telephone interviews).

[7] *Market Entry Barriers Forum*, note 3, *supra.*

on urban formatted stations because "Black people don't eat beef."[8] NABOB also reported that a major mayonnaise manufacturer refused to buy commercial time based upon the perception that "Black people don't eat mayonnaise."[9] In both cases, NABOB members reported that the advertisers were unmoved by market research that indicated that African-Americans[10] represented a substantial number of the consumers of the companies' products.[11]

In many instances, advertisers were also reported to pay less money for commercial time on stations that target programming to minority listeners. Minority broadcasters claim that this practice, known as "minority discounts," accounts for a substantial loss of revenues from the sale of advertisements.[12]

The FCC's market entry barrier forum was proceeded by a conference nearly 20 years earlier during which similar information was brought to the Commission's attention. Panelists at the Commission's 1978 Minority Ownership Broadcasting Conference noted that:

> *A preconceived notion, on the part of some advertisers, is that minority consumers are unimportant and do not represent a particularly lucrative market. Consequently, advertisers are less inclined to purchase time on minority-owned stations.*[13]

The concerns of broadcasters have also been registered with members of Congress. In 1991, Representative Cardiss Collins, (D-Ill), introduced a bill[14] intended to prohibit the purchase or placement of advertisements in a manner that discriminates against broadcast, telecommunications or print entrepreneurs by reason of the entrepreneur's racial/ethnic status or the racial/ethnic status of the consumers targeted by the communications format. In introducing the bill, Representative Collins said:

> *According to the National Association of Black-Owned Broadcasters, black-owned radio and television stations, print media, and black-owned advertising agencies are subjected to systematic discrimination.*

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[8] NABOB, Spring Conference, 1996.

[9] NABOB, Spring Conference, 1997.

[10] This report uses the terms "African-Americans" and "Blacks" interchangeably to refer to persons of African descent living in the United States.

[11] NABOB, Spring Conferences, notes 8 and 9, *supra.*

[12] Minority broadcasters responding to the survey for this study estimated "minority discounts" averaged 59% (*see* page ?).

[13] *Report on Minority Ownership in Broadcasting,* Federal Communications Commission, 1978, at 25.

[14] NonDiscrimination in Advertising Act of 1991, H.R. 285, 102nd Cong., 1st Sess. (1991), (*see* Appendix B).

> *Ad agencies and their clients are refusing to advertise in media owned by blacks and other minorities. This means that in many cases Black media are being bypassed for advertising placement, even though they possess higher numbers in groups being targeted by the ad agency. Black-owned advertising agencies are also being singled out because they are presumed to have expertise in appealing to black audiences.*[15]

Though the bill was not passed, it drew attention to the impact of advertising practices on broadcasters and the community that they serve.

The FCC has long recognized that advertisers play a vital role in a station's financial success or failure.[16] Advertising dollars are critical to a commercial station's ability to make a profit to pay its employees, retire debt from the station purchase,[17] earn money to acquire other stations, and offer quality programming to its audience. Thus, advertising practices have a profound effect on a station's ability to serve their community of license.

Radio and television play a critical role in American society as a means of communicating news, information, and entertainment. In 1997, the average adult listened to the radio 22.5 hours a week.[18] Hispanics[19] listened to the radio 24.45 hours weekly, while African-Americans listened 25.5 hours weekly.[20] The television was on 7.12 hours a day in the average American household in 1997.[21] Consequently, American television households viewed on average 50.24 hours of television a week in 1997, compared to 56.17 hours for Hispanic and 69.49 hours for African-American households.[22]

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[15] 137 Cong. Rec. E32-02 (1991).

[16] FCC, Office of Public Affairs, EEO Minority Enterprise Division, Minority Ownership of Broadcast Facilities: A Report (1979) at 19.

[17] *See* Akosua Barthwell Evans, *Are Minority Preferences Necessary? Another Look at the Radio Broadcasting Industry*, 8 Yale Law and Policy Review 380 (1990) ("*Radio Broadcasting*") at 400, ("A ripple effect of the difficulties in obtaining financing and high quality stations is that African-American broadcast facilities are often highly leveraged and have a greater dependency on advertising revenues to pay debt service.").

[18] Radio Marketing Guide & Fact Book, ("Radio Marketing Guide") www.rab.com/station /mgfb98/fact5.html accessed December 2, 1998.

[19] This report uses the term "Hispanics" to refer to persons of Hispanic origin or descent living in the United States.

[20] Radio Marketing Guide, note 18, *supra.*

[21] TVB, Resource Center, Trends in Television, www.tvb.org/researchreports/trend tv/ timespent.html, accessed December 21, 1998.

[22] Nielson Media Research, Television Audience 1997, at 24.

Sixty minutes of the average American adult's day were spent reading, watching or listening to advertising.[23] The billions of dollars spent on radio and television advertising reflect its impact on the economy and society. In 1997, $13.4 billion was spent on radio advertising and $44.5 billion on television advertising.[24]

In light of the important role of broadcasting in American life, and the impact of advertising practices on broadcasters' ability to compete and serve the public, the FCC, in August 1997, commissioned the Civil Rights Forum on Communications Policy ("CRF") to conduct this study. The funding[25] allocated to this study only permitted a preliminary investigation of whether small, female and minority-owned broadcasters have greater difficulty in obtaining commercial advertising. The study seeks to establish a basis for a comprehensive analysis of this question in the future.

This study will aid the Commission in its efforts to evaluate policies to promote competition and overcome market barriers facing small, female and minority communications firms. It will serve as a foundational step for the FCC to "identify the specific obstacles that women and minorities face and to determine whether they are of the nature that will satisfy heightened judicial scrutiny."[26]

A comparison of the top-rated radio stations in the eighth largest market, Washington, D.C., illustrates the importance of this study. Minorities comprise a large percentage of the listening audience for the three highest-rated stations—WPGC-FM, WHUR-FM and WKYS-FM. These three stations are roughly comparable in terms of audience size, program format,[27] and audience demographics (see

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[23] *The Average Adult,* The Pantagraph, Bloomington, Illinois, August 24, 1997, 1997 West Law ("WL") 2484757.

[24] TVB, Resource Center, Trends in Advertising Volume, www.tvb.org/researchreports/trends_advolume/1995_1997.html, accessed December 3, 1998. By comparison, $41.6 billion was spent on newspaper advertising in 1997, and $9.8 billion on magazine advertising. *Id.*

[25] This study was funded by a $20,000 contract awarded to the Civil Rights Forum by the Federal Communications Commission, Office of Communications Business Opportunities.

[26] *Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Business* ("Market Entry Barriers Report"), 12 FCC Rcd 16802, para. 222 (1997). The Report referenced strict scrutiny standards for affirmative action policies established by the federal government. *See, Adarand Constructors, Inc. v. Peña,* 515 U.S. 200, 115 S. Ct. 2097 (1995); *See also, Memorandum to General Counsels,* Office of Legal Counsel, U.S. Department of Justice, June 28, 1995.

[27] WHUR and WKYS are both "urban" format stations, meaning they target the African-American community with "urban-style" programming. WPGC classifies itself as "Contemporary Hit Records ("CHR/Top 40"), although its programming is similar to its urban competitors and 79% of its audience consists of minority listeners. *See,* The Media Audit database (Spring 1997), prepared by International Demographics, Inc., Ben Carter, Regional Manager of the Interep

Table 1).[28] The demographics of WHUR, in fact, reflect a more economically affluent audience than the listeners of the number one rated station, WPGC. However, WPGC generated revenues in 1997 that were greater than the combined revenues of WHUR and WKYS.

Second, WPGC was far superior in terms of earning more ad revenues per listener. The power ratio is a measure of a station's ability to convert market share of listeners into market share of revenues.[29] The power ratio of WPGC was 1.26 compared to 0.78 for WHUR and 0.59 for WKYS. In comparison, the average power ratio was 1.06 for 3,502 stations reporting power ratio data for 1997 in the July 1998 edition of the BIA MasterAccess database.

Media Store, commented that some urban formatted stations designate their format as CHR or Adult Contemporary (AC) in order to avoid "no urban dictates" and "minority discounts." Telephone interview with Ben Carter, August 5, 1998.

[28] The column labels of Table 1 indicate station owner, call sign, local commercial share ("LCS," a measure of audience size), power ratios (a measure of a station's ability to convert listener share into share of market revenues), 1997 station revenues, program format, percent of minority listeners, percent of listeners with household income of $75,000 or greater, percent of listeners with a college degree, percent of listeners age 25 to 54, and percent of listeners with professional or technical employment (*see,* Glossary, Appendix K for definitions). Minority-owned stations are highlighted in dark shading. Data in the first six columns was provided by the July 1998 edition of the BIA MasterAccess, BIA Research, Inc. Audience demographic data was obtained from Fall 1997 edition of The Media Audit (Fall 1997), International Demographics, Inc.

[29] Stations with power ratios less than 1.00 are "underselling" their audience— the station's market revenue share is less than its market listener share. Conversely, those with power ratios over 1.00 are "overselling" their audience— the station's market revenue share is greater than its market listener share. *See* BIA Research, *Interpreting BIA's Numbers in MEDIA Access Pro*, undated memo, ("The estimated revenue share for the station is determined by dividing the station revenues by the market revenues times 100. Then this calculated revenue share figure is divided by the local commercial share. A power ratio greater than 1 indicates the station is overselling its audience share; while a ratio less than 1 indicates a station is underselling its audience share."). (*See*, Glossary, Appendix K, (the 1998 edition of the BIA MasterAccess database was renamed MediaAccess Pro)).

Table 1 Washington, D.C. - Top-Rated Stations

Owner	Calls	LCS	Power Ratio	1997 Station Revenues (1,000s)	Format	% Minority Listeners	% 75,000 plus HHI	% College Grad.	% Age 25-54	% Prof./ Tech.
CBS	WPGC FM	7.4	1.26	$22,000	CHR/Top 40	79.3%	26.0%	15.1%	63%	13.4%
Howard Univ.	WHUR FM	6.8	0.59	$9,500	Urban	93.4%	31.8%	23.7%	75%	21.5%
Radio One	WKYS FM	6.5	0.78	$12,000	Urban	85.7%	26.9%	13.7%	65%	12.8%
Chancellor	WMZQ FM	6.1	1.12	$16,000	Country	11.0%	36.6%	22.2%	86%	22.2%
Chancellor	WBIG FM	5.2	1.06	$13,000	Oldies	26.3%	37.2%	29.0%	73%	73.7%
ABC	WMAL AM	5.2	0.94	$11,500	News/Sports	24.0%	46.4%	31.3%	54%	30.1%
Chancellor	WASH FM	5.1	1.21	$14,500	AC	46.3%	37.3%	30.8%	73%	36.0%

Data: BIA MasterAccess; The Media Audit

In addition to format label, two main factors distinguish the market leader, WPGC, from its two closest competitors. First, WHUR and WKYS are owned by minority broadcasters,[30] while WPGC is owned by CBS, a publicly-held, non-minority broadcaster. Minority ownership also distinguishes WHUR and WKYS from the next four competitors, all of which have fewer listeners but earn equal or greater revenues. The second distinguishing factor is ownership size. The owners of the top revenue performers in Table 1 are among the top five largest group owners in the country. The 1997 national revenues for all radio stations owned by CBS, the owner of WPGC, were $1.5 billion, compared to $9.5 million and $56.8 million for Howard University's station and all Radio One radio stations, respectively.[31]

This example is typical of what can be found in several large urban markets where top-rated minority-formatted and/or minority-owned stations fail to earn advertising revenues that are

[30] WHUR is a commercial station owned by Howard University, a historically Black college; WKYS is owned by minority-owned Radio One.

[31] CBS owns 166 radio stations nationwide compared to 1 for Howard University and 13 for Radio One (BIA MasterAccess, July 1998 edition).

commensurate with their large audience.[32] (*See also, Ratings Racism: When No. 1 Is Not,* by Mira Schwirtz, MediaWeek, June 22, 1998).

This pattern raises several questions: To what extent does ownership size explain discrepancies in advertising performance? To what extent does minority-format or minority ownership contribute to the inability of stations to earn revenues that are commensurate with their large audience shares? And, to what extent does the racial/ethnic or economic status of an audience influence the buying practices of advertisers and ad agencies?

B. The Research Objective

Following the Commission's mandate to "identify the specific obstacles that women and minorities face" in the communications industry,[33] the FCC's Office of Communications Business Opportunities (OCBO) contracted for this study to "examine whether minority or women-owned firms, and small firms, which have acquired FCC broadcast licenses, have greater difficulties in obtaining advertising or are affected by industry practices which may lower their advertising revenue."[34]

[32] Based upon local commercial share rankings for 1997, minority-formatted and/or minority-owned broadcasters rank among the top four stations in New York, Washington, D.C., Detroit, Houston and Los Angeles. In each of these markets many non-minority-formatted stations with fewer numbers of listeners receive greater amounts of advertising revenues. In New York, for example, the number one station in terms of listeners is WQHT-FM, an urban formatted station that has a 1997 average local commercial share of 6.90. Easy listening station WLTW-FM also has a 6.9 local commercial share. The revenues of WLTW, however, are $37.9 million, compared to $26.6 million for WQHT. Spanish formatted WSKQ-FM is minority-owned and is the third ranked station in New York with a local commercial share of 5.2. Yet, its revenues were only $20.7 million compared to $32.7 million for WCBS-FM, an oldies formatted station that also had a 5.2 rating. The top revenue performer for New York was a mid-market performer in terms of local commercial share; WFAN-AM owned by CBS, earned $47 million and averaged 3.1 in terms of local commercial share. Data derived from the BIA MasterAccess, July 1998 edition.

[33] Market Entry Barriers Report, 12 FCC Rcd 16802 para. 222.

[34] Request for Quote ("Advertising RFQ"), Impact of Advertising Practices on Small, Minority and Women-Owned Broadcasters, FCC Office of Communications Business Opportunities, (97-10), July 1997.

The Commission specifically requested an analysis of the impact of "no Urban dictates"[35] and "minority discounts."[36]

The term, "no Urban/Spanish dictates," means that the advertiser or its agency has issued a directive that commercials are not to be aired on stations that program primarily to the Black and Hispanic communities, regardless of data on station ratings, audience demographics or consumption patterns. "Minority discounts" consist of buying time on a minority-owned or minority-formatted station at a rate that is substantially less than what the station's ratings and audience characteristics suggest should be paid.

This study was intended to be a preliminary investigation. Its objective was to analyze advertising practices and to identify areas for further research. Specific areas of research concerning "no Urban/Spanish dictates" and "minority discounts" include:

- range and extent of the practice;
- motivation factors (e.g. income and/or race of the listening audience);
- impact on station revenues;
- impact on power ratios—a station's ability to convert its listener share into shares of revenue in a market;
- ownership size; and
- access to capital and ability to expand.

C. Methodology

The methodology consisted of survey questionnaires, in-depth interviews and quantitative analyses. Preliminary efforts were undertaken to refine the research question.

First, CRF determined that it is standard practice in the advertising industry to target ad campaigns to consumers who are most likely to purchase the products or services of the advertiser (*see* Overview of Media Buying, Appendix A). In the case of radio, this means buying commercial time on stations that have an audience that satisfies the "buy criteria" (*i.e.* demographic characteristics that

35 The Advertising RFQ which solicited bids for this research study mentions "other dictates" in addition to "no Urban dictates." Preliminary investigations indicated a need to include "no Spanish dictates" in the study. For purposes of this study's analysis, "Spanish" format includes programming targeted to the Hispanic community, whether provided in the Spanish language or in a Spanish-English bilingual format.

36 Advertising RFQ, page 4.

advertisers believe best describe the people most likely to purchase their products, such as males with a college degree, ages 25 to 54). The fact that most commercial buys on radio are targeted suggests that a demographic segment (*i.e.* males without a college degree, ages 12 to 34) is always excluded from an ad campaign.

Given that targeted advertising is a standard business practice, CRF recognized that a causal link between poor advertising performance and "no Urban/Spanish dictates" and "minority discounts" could not be established, unless "dictates" and "discounts" could be distinguished from justifiable business practices. In order to do this, it would be necessary to assemble a data set that contained data on station advertising performance, as well as audience demographics. The attempt to do this, however, resulted in a relatively small data set of 1,533 stations mostly located in the top 100 markets. CRF determined that the task of assembling a data set for a representative number of markets and stations containing both station performance and demographic data was beyond the scope of this project. Subsequent research with appropriate funding is recommended to undertake a full statistical analysis of the problem.

The quantitative analysis, more fully explained below, did compare the advertising performance of stations controlling for program format, ownership size, and minority ownership. These findings, therefore, should be regarded as *prima facie*. They will be verified or invalidated by subsequent research. They are presented here as preliminary findings and to inform future research efforts.

At the outset, interviews were conducted to refine the research question. In the *television arena,* interviewees suggested that bias related to race and ethnicity was primarily based on the race or ethnicity of minority salespeople, and had less to do with the viewing audience. This view is consistent with the fact that television, unlike radio, is viewed by a broad segment of audience demographics throughout the broadcast day. The exception to this practice is foreign language television. The investigation of the television medium, therefore, concentrated upon discrimination related to the ethnic/racial composition of the salesforce of minority-owned television stations, as well as minority ownership.

In the *radio arena*, the preliminary interviews suggested that many stations are hindered in their ability to earn ad revenues due to advertising practices that disfavor programming targeted to minority listeners.[37] The main focus of the study with regard to radio, therefore, was directed toward determining the extent to which, if any, "no Urban/Spanish dictates" and "minority discounts" are practiced in the advertising industry and quantifying the relationship between such practices and the advertising performance of minority-formatted stations.

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[37] For the purpose of this study, program formats were categorized as minority-format or general market based upon the categories employed by BIA Research Inc., (*see* Appendix K). BIA formats denoted as ethnic, black, Spanish, or urban were categorized as minority-formatted. These broad classifications also included subcategories (e.g. urban includes rhythm and blues, urban adult contemporary, and urban rap). All other formats were categorized as general market.

The qualitative methodology included in-depth interviews of 21 radio industry executives. The interviews focused on "minority discounts" and "no Urban/Spanish dictates." A full transcription of the interviews is on file with the Federal Communications Commission Office of Communications Business Opportunities and in the FCC Library. It is also available as volume III of this study.

In addition, a survey questionnaire was submitted to the General Managers of all 284 minority-owned radio stations that are listed in the 1997 minority ownership report published by the U.S. Department of Commerce.[38] Sixty-four completed questionnaires were returned, representing a response rate of 22.5 percent. Survey questionnaires were also distributed to all 30 television licensees identified as owned by minorities by the U.S. Department of Commerce. Eleven completed questionnaires were returned representing a response rate of 36.6 percent. The survey instruments and their consolidated results are presented in Appendix J.

The survey response rates and survey design did not produce results that can be generalized to the universe of minority broadcasters. Accordingly, the survey analysis represents the views of only those broadcasters who responded to the survey. Further research should be conducted with sufficient resources to provide results that can be generalized to all minority broadcasters. Subsequent research should also survey the experience of non-minority owners that air programming targeted to minorities.

Two separate quantitative analyses were undertaken to examine nationwide data on the radio industry. The independent variables for the first analysis were program format, the ethnic/racial classification of the station owner, and number of stations owned nationwide. Two dependent variables served as proxies for advertising performance: power ratios[39] and station revenue.[40] These two variables were compared on the basis of the independent variables. The results of the analysis are discussed in Section III-C-2 and Section III-C-3.

Data for the first analysis was obtained from the August 1997 edition of the BIA MasterAccess radio database prepared by BIA Research Inc. (*see,* Glossary in Appendix K for description of BIA's methodology for estimating station revenues). The BIA database was queried to produce a list of all stations in 1996 with advertising performance data by using the selection criteria: "stations with a power ratio greater than zero."[41] This produced a data set of 3,745 stations representing approximately one-third of the nation's commercial radio stations in 1996. The data set included 155 stations that were

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[38] *Minority Commercial Broadcast Ownership in the United States* ("NTIA Minority Ownership Report"), National Telecommunications and Information Administration, U.S. Department of Commerce, August 1997.

[39] The power ratio measures a station's ability to convert its share of listeners into share of market revenue. *See,* Glossary, Appendix K and note 29, *supra.*

[40] Average station revenues reflect average gross revenues, as opposed to net. (*see* Glossary, Appendix K).

[41] A power ratio greater than zero indicates the station reported revenue and listener data.

identified as minority-owned[42] and 413 stations with programming directed to minority listeners. Stations included in this data set ranged from Arbitron market number 1 through market 246. Appendix D contains a frequency distribution table that indicates the number of stations in each Arbitron market.

A second analysis sought to determine whether the audience demographics associated with minority-formatted programming could be readily distinguished from the demographics of general market programming. This analysis was undertaken because it was previously determined that media buyers take audience demographics into consideration when deciding where to place advertisements (*see* Appendix A). For this analysis CRF compared minority-format stations with general market stations on the basis of average household income and percentage of ethnic/racial listeners. The results of the analysis are presented in Section II-C-1.

Data for the second analysis was obtained by combining the August 1997 edition of the BIA MasterAccess database prepared by BIA Research Inc. and the Spring 1997 edition of The Media Audit prepared by International Demographics, Inc. Pairing data from The Media Audit with data from BIA resulted in a combined data set of 1,533 stations. This data set consists of stations located mostly in the top 100 Arbitron markets and includes 98 minority-owned stations and 212 minority-formatted stations. See Appendix D for a market frequency distribution table for this data set.

Data comparisons for both analyses were performed using SPSS software version 7.5.

As noted earlier, the funding available for this study was insufficient to undertake a comprehensive statistical analysis that simultaneously controls for all variables that may affect advertising performance. Hence, the quantitative findings of this study should be regarded as preliminary. They are presented here to inform future research that should control for additional variables such as audience income. Therefore, the results contained in this study do not constitute conclusions about the causal relationship between the independent and dependent variables. Further statistical inquiry is necessary to explore and verify these findings.

D. Summary of Major Findings

Radio. As discussed further below, the quantitative data suggest that minority-formatted radio stations earned less revenue per listener than stations that aired general market programming. Second, minority-owned radio stations appear to earn less revenues per listener than majority broadcasters that owned a comparable number of stations nationwide. These disparities in advertising performance may be attributed to a variety of factors including: economic efficiencies derived from common ownership; advertisers' or ad agencies' assessments of a radio audience's income, spending patterns, and responsiveness to advertising; or ethnic/racial stereotyping that influences the media buying process.

[42] The August 1997 edition of the NTIA Minority Ownership Report was used to flag stations in the BIA MasterAccess database as minority-owned. The NTIA list was modified to conform with sales transactions that had occurred through August 1997.

As a preliminary investigation, this study was able to establish that disparities in advertising performance exist. It was not able, however, to determine in quantitative terms the degree to which each of these factors may explain disparities in advertising performance. Further statistical research should be undertaken to find the answer to this question.

With regard to the anecdotal data, the results of study survey and interviews suggest that "no Urban/Spanish dictates" and "minority discounts" are partly the cause of the disparities in the advertising performance described above. According to the anecdotal data, the following factors influence the media buying process and to some extent form the basis of "no Urban/Spanish dictates" and "minority discounts:"

- racial/ethnic minority consumers are incorrectly stereotyped as inappropriate consumers to receive advertising for certain luxury products or services;
- stations that program to minority listeners are excluded based on average listener income, regardless of data about consumption patterns;
- the desire to disassociate a company's image from minority consumers;
- language barriers, in the case of Hispanic radio;
- advertisers' unfounded fears that minority consumers pilfer;
- media buyers' and advertisers' unfamiliarity with the consumer habits of minorities;
- efforts by broadcasters and their national sales representatives to discourage advertisements on minority-formatted stations; and
- the belief that minorities can be reached as effectively through the general media as compared to targeted media.

Despite indications that Hispanics and Blacks are a substantial and growing segment of the domestic economy (*see* Section II-B-3 and C), the anecdotal data provided evidence that "no Urban/Spanish dictates" and "minority discounts" are still practiced in the radio marketplace.

An example of these practices is the reported refusal of luxury automobile manufacturer BMW to consider placing advertisements on urban formatted stations in the New York metro market. According to the station manager of one of the urban stations, BMW also disregarded qualitative research showing that Black adults accounted for 46 percent of the people who owned or leased BMWs in New York (*see* page 26; *see also,* page 25 for an example involving Volvo). In industry jargon this practice is called "no Urban dictates" or "no Spanish dictates" (*i.e.* a policy not advertise on stations due to their urban or Spanish formats).

The Black consumer is less valued than the White consumer and therefore they're going to pay less for Black consumers. Judith Ellis, Sen. V.P., Emmis Broadcasting.

[T]he account supervisor for a major car manufacturer says to me, "Come on guys. You know we're wasting our time here." And I said, "How's that?" He says, "You know the Hispanics don't buy or lease cars." Luis Alvarez, Sales Manager, WSKQ, WPAT.

There are certain products, name brands, who for the longest time did not utilize Blacks in their advertising even though they knew that Blacks represented a significant part of their sale volumes. Byron Lewis, Chairman, The UniWorld Group

The results of CRF's survey research provided an estimate of the magnitude of the problem concerning "dictates." Ninety-one percent of the minority broadcasters responding to the survey indicated that they had encountered "dictates" not to buy commercials on their radio station (*see* page 32).

Minority survey respondents reported that efforts to overcome "dictates" using audience measurement research yielded meager results. When asked to describe the response of advertisers and ad agencies toward research that demonstrated minority patronage for the advertised product, survey respondents rated "no response" and "acknowledgment of the research, but no rescission of the dictate" as the two most common responses (*see* page 38).

Media executives interviewed for the study reported that advertisers and/or ad agencies habitually purchase commercial time on minority-formatted stations at rates that are lower than what is paid to stations that air programming to the general market. This practice is customarily called "minority discounts." For example, a well-known mattress retailer offered to buy time on a New York urban station at a rate lower than what it offered to pay to a jazz format station under common ownership with the urban station. The urban station was offered a discounted rate, despite the fact that its audience size was greater than that of the jazz station. Moreover, qualitative data ranked the urban station 22 points higher than the jazz station with respect to listeners' plans to buy bedding or mattresses (*see* page 85).

Minority broadcasters responding to the survey estimated that 61 percent of the advertisements purchased on their stations were discounted. The amount of the discount was estimated to be 59 percent (*see* page 35). When asked to estimate the magnitude of sales loss attributable to "no Urban/Spanish dictates" and "minority discounts," the minority broadcasters replied that these practices reduced their revenues by an average of 63%.

The corollary to this claim is that minority broadcasters would perform better, and possibly exceed the performance of their majority competitors, but for "minority discounts" and "no Urban/ Spanish dictates." Quantitative data collected by this study suggests that if minority-owned broadcasters and minority-formatted broadcasters were able to earn revenues at the same rate per listener as general market broadcasters, higher performance levels might be possible. The data suggest that "minority discounts" and "no Urban/ Spanish dictates" constitute considerable barriers to competition for minority-owned and minority-formatted broadcasters.

CRF employed two measures of advertising performance: station revenues and power ratios. Station revenues in this study are based upon annual gross revenues. Power ratios indicate whether a broadcaster is "overselling" or "underselling" its audience share. Hence, a station with a 1.20 power ratio is earning more revenue per listener than a station with a 0.80 power ratio (see Glossary, Appendix K).

The analysis of nationwide data indicates that stations with minority formats averaged power ratios of 0.91, compared to 1.16 for stations with general market programming (*see* Table 2, page 79). This analysis is consistent with other trend analysis that shows that minority-formatted stations have been less able to convert their listener shares into advertising revenue, even when they have large audiences.[43]

Disparities in advertising performance as measured by power ratios were also observed in terms of the racial/ethnic ownership of the broadcaster. Majority owners that aired minority targeted programming averaged power ratios of 0.95, compared to 0.82 for minority owners. The average power ratio was 1.16 for majority owners in general market format, compared to 0.85 for minority owners in general format.

These disparities persist when comparing minority broadcasters to majority broadcasters of comparable size. Small[44] majority-owned broadcasters that target programming to minority listeners averaged power ratios of 0.99, compared to 0.82 for minority broadcasters in that format. In the

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[43] James H. Duncan's 1997 report on radio revenue and ratings documented this trend over time. CRF computed the historical average for the power ratios of minority and general market formatted stations analyzed by Duncan between 1991 and 1996. During that period, the power ratio for the stations analyzed by Duncan averaged 0.96 for Hispanic formats and 0.73 for urban/black formats, with a combined average of 0.85. For general market formats, the average power ratio between 1991 and 1996 was 1.07. The historical data indicate that during this decade, Black and Hispanic formats have been less able to convert their share of the listening audience into revenues than general format stations. This time series analysis is consistent with the anecdotal evidence in this study. *See*, James H. Duncan, *Share-to-Revenue Conversion Ratios,(Some call them Power Ratios, We call them Conversion Ratios) and Format Performance Analysis," ("Duncan's Power Ratio Analysis"),* Duncan's American Radio, Inc., May 1997, page 5.

[44] Small majority owned broadcasters airing minority-formatted programming were defined as those owning 17 or fewer stations nationally in 1997, mirroring the range of minority ownership in that format. The average number of stations owned nationally by minority broadcasters airing minority-formatted programming was 4.4. The average number of stations owned nationally by small majority broadcasters airing minority-formatted programming was 4.9. *See* Table 2, page 79; *see also,* NTIA Minority Ownership Report, 1997 and the August 1997 edition of the BIA MasterAccess.

general market format category, small [45] majority owners averaged power ratios of 1.16, compared to 0.85 for minority owners.

In terms of station revenues, general market stations averaged revenues that were 12% greater than minority-formatted stations. Majority broadcasters, overall, outperformed minority broadcasters within both format categories. Station revenues for majority broadcasters that aired general market programming were on average 79% greater than those of minority competitors within the same format. Majority broadcasters that aired minority-formatted programming averaged revenues that were 20% higher than those of minority broadcasters in the same format category.

A comparison of broadcasters of comparable size[46] indicates that general market majority-owned broadcasters averaged revenues that were 14% greater than minority-owned stations within the same format category. Significantly, the revenue comparison indicated that minority broadcasters that target minority listeners outperformed small majority broadcasters in both format categories. Station revenues for minority-formatted, minority-owned broadcasters were 65% greater than small majority competitors with minority targeted programming, and 22% greater than small majority competitors in the general market category.[47] This finding indicates that minority-owned broadcasters are strong marketplace competitors. Their advertising performance would likely be even better, allowing them to provide more service to their listeners and to grow at a competitive rate, were it not for the advertising practices analyzed in this study.

On the basis of station revenues and power ratios, general format stations outperformed stations that targeted programming to the minority audience. Majority broadcasters as a whole that aired general market programming performed better than minority and small majority broadcasters that aired minority formats. These findings based upon nationwide data are consistent with anecdotal evidence that suggest that advertisers and/or ad agencies place less value on the minority consumer. The anecdotal evidence and quantitative findings, taken together, suggest that in the absence of "minority discounts" and "no Urban/ Spanish dictates," minority-owned and minority-formatted stations would earn more revenue per listener than they do currently.

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[45] Small majority owned broadcasters in general market format were defined as those owning 26 or fewer stations in 1997, mirroring the range of minority owners in that format. The average number of stations owned nationally by minority broadcasters and majority broadcasters airing general market programming was 7.4. *See* Table 2; *see also,* NTIA Minority Ownership Report, 1997 and BIA MasterAccess database, 1997.

[46] The basis of the revenue comparison of broadcasters of comparable size was the same as that for the power ratio comparison. *See,* notes 45-46, *supra.*

[47] Revenue comparisons in this study did not control for the market rank of stations. As noted in Section II-C-2-c, minority broadcasters are more concentrated than majority broadcasters in large urban markets where station revenues are higher. Such variations in market rank affect revenue comparisons (*see* Chart L).

Research beyond the scope of this preliminary investigation is required to determine the relative effect of various independent variables (ownership size, audience income, audience ethnicity, minority ownership, program format, etc., *see* Section II-D) upon advertising performance. As preliminary research, the findings presented by this report may be confirmed or disproved by subsequent research. These findings are presented as *prima facie* evidence of practices in the advertising industry that discriminate against minority listeners and indirectly against the stations that serve them. They are also intended to highlight areas for further inquiry.

Women-Owned Radio Stations Until October 1998, the FCC did not require broadcasters to report the gender or race of station owners.[48] In an effort to identify women owners to be examined for this study, CRF contacted American Women in Radio Television and Film, the National Telecommunications and Information Administration ("NTIA"), and the Federal Communications Commission. NTIA publishes an annual list of minority broadcasters, but does not identify the owners' gender. While that list is an indispensable tool for examining minority ownership, one may only estimate gender by examining first names. Apart from this source, CRF was able to identify only six radio stations owned by two non-minority females. Limits on the funding allocated to this study prevented a more exhaustive effort to identify all female radio and television owners. Considering the distinct possibility that there may be more women owners, particularly of large station groups, CRF concluded that there was inadequate data at this time upon which to base an analysis.

It is recommended that subsequent research first undertake to identify the nation's female broadcasters. A study should be conducted to assess the impact of advertising practices upon female broadcasters from the standpoint of programming formats that target women viewers/listeners, the presence of women in the station's sales force, the station's status as female-owned, and the ability of female entrepreneurs to raise capital.

Minority-Owned Television. Television programming is not targeted through the course of the broadcast day to a narrow audience demographic in the same way as radio. This makes it less likely that the revenue earning ability of minority television stations can be linked to ad agency or advertiser bias against an audience, though it may vary by show. The only instance in which such bias was identified was in the context of Spanish-language television. One station reported negative advertiser support due to the station's Spanish-language format and the Hispanic composition of the audience (*see* Section III).

Other reported instances of lack of advertiser support originated from Home Shopping Network (HSN) affiliates. Based upon 1997 estimates of minority television ownership, 25 percent of the Black owners aired commercials 24 hours a day as HSN affiliates. Complaints about advertiser support originating from minority-owned HSN affiliates are believed to stem from advertiser reluctance to support this unique format, and not from the racial/ethnic composition of the viewing audience.

[48] *See, In the Matter of Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, FCC 98-281, MM Dockets 98-43 & 94-149, released November 25, 1998, 1998 WL 814552 (stations must report race and gender of owner on FCC broadcast ownership reports).

There was no consensus on the part of the survey respondents concerning the effect of minority sales staff , minority ownership or minority-oriented programming on the ability of the television stations to earn advertising revenues. Therefore, no conclusions or generalizations can be made in this area.

Further research is recommended to analyze the impact of advertising practices which take race, ethnicity or gender into account on television, particularly their impact on which shows are produced or aired and the advertising performance of programs. Research should also examine the impact, if any, of advertising practices on the images of minorities and women on television programming.

E. Policy and Research Recommendations

This study was intended to be a preliminary investigation of practices in the advertising industry that affect broadcasters. Recommendations for further research and a process for developing policy initiatives are summarized below.

1. Further Research Recommendations

As noted earlier, it is a normal business practice in the advertising industry to target advertising to probable consumers. Hence, it is essential that research undertaken as a follow-up to this study distinguish between legitimate business practices, and those which may not be justifiable in terms of nondiscriminatory marketing objectives.

One such method is to compare the general market cost per point paid to general market and minority-formatted stations. The cost per point is the price that an advertiser pays to reach 1% of the audience in a specific metro market (see Glossary, Appendix K). Section II-C-2-d presents evidence that minority-formatted stations receive general market cost per points that are discounted. In order to prove a pattern of such practices, however, a researcher must have access to proprietary information. Advertising agencies and national rep firms generally maintain such records. CRF attempted to, but could not, obtain such data. It may be necessary for future researchers to avail themselves of the subpoena powers of the federal government in order to access such information.

On the basis of questions raised by this study concerning the impact of advertising practices on minority-owned and minority-formatted stations, CRF also recommends the following research initiative:

- A broader study, funded with sufficient resources, should be undertaken to analyze the impact of various factors on broadcasters' performance. Such an analysis will help the FCC identify whether there are impediments to entry and growth in the broadcast industry that warrant Commission action, and the reasons for those obstacles.

- The analysis should examine factors such as: the impact of ownership size on revenue and power ratios; advertising pricing variances (including cost per point variances) by format; the racial/ethnic classification of the owner, and owner size; differences in quantity of advertising time made available by stations; consumer responsiveness to advertising on minority-targeted media compared to general market media; the extent to which a broad variety of formats are subjected to systematic "discounts," or "dictates" based on the audience served; the relationship between "dictates" or "discounts" and the range of formats on a broadcaster's stations; the extent to which "discounts" are based on audience income levels for various formats; the quantity of discounts experienced by minority-formatted stations and other formats, and their pervasiveness; the extent to which discounts may be related to station classifications of power and reach (*i.e.* AM or FM, Class A or Class C); the extent and pervasiveness of "no Urban/Spanish dictates," and the use of dictates for other formats.

- Additionally, the analysis should consider the impact of the race/gender of station, ad agency, advertiser and representative firm personnel; the practices of broadcast owners in competing against minority-formatted or minority-owned stations based upon misrepresentations and improper disparagements; the ownership of radio and television stations by women; whether stations targeting programming at women are subjected to similar practices in the advertising industry, and the influence of such factors.

- The analysis should also probe the use of media ratings services in advertising decisions, particularly unaccredited services. It should examine the effect of audience undercounting by media ratings services on the advertising performance of minority-owned and minority-formatted broadcasters. It should investigate the impact of advertising practices on viewers and listeners, *i.e.* whether they affect the availability of format, diversity of viewpoints on the airwaves, and broadcasters' service to the American public. Finally, the analysis should investigate whether minority or women owners encounter barriers based on race or gender, and whether any such findings justify remedial measures or incentives to remove barriers to market entry, growth and competition for small, minority and women-owned radio stations.

2. Policy Initiatives

On the basis of the comprehensive study described above, the Federal Communications Commission and the Federal Trade Commission should coordinate efforts to address the research findings. Specifically, the two agencies should:

- Assemble a joint task force to develop standards for acceptable advertising practices. Standards adopted by the task force should be included in a joint policy statement issued by the Federal

Trade Commission[49] and the Federal Communications Commission[50] stating their shared and separate jurisdictions. The policy statement should be open for public comment before being implemented. The Federal Trade Commission should have primary jurisdiction regarding instances in which advertisers, ad agencies, or broadcasters are alleged to have violated regulations governing unfair and deceptive business practices. The Federal Communications Commission should take the Federal Trade Commission's findings into account when determining whether the public interest would be served by renewal of a broadcasters' license or other FCC actions including sanctions.

- Recommend whether an executive order should be issued that prohibits federal agencies from contracting with ad agencies or advertising representatives that practice "no Urban/Spanish dictates," "minority discounts," or that otherwise fail to conform to the standard of practices adopted by the joint task force.[51] A 1989 General Accounting Office report on federal use of small and disadvantaged advertising subcontractors estimated federal advertising expenditures to total $165 million.[52] Such spending capacity should be used to leverage compliance with standards established by the joint task force.

- Require broadcasters to show cause why they do not use an audience research service that is accredited by the Media Ratings Council. Broadcasters that use non-accredited research services should be required to prominently disclose that fact to advertisers, ad agencies and others that rely upon such data.

3. Private Sector Initiatives

[49] Section 5(a) of the Federal Trade Commission Act appears to provide the Federal Trade Commission with authority to exercise jurisdiction over advertisers, ad agencies and other entities involved with the media buying process to the extent that they engage in practices affecting commerce that are unfair, false, misleading or misrepresentations of fact. 15 U.S.C. § 45(a)(1) ("Unfair methods of competition in or affecting commerce...are hereby declared unlawful.").

[50] The findings of this study suggest that "no Urban/Spanish dictates"and "minority discounts" undermine the revenue generating ability of broadcasters and consequently their ability to obtain financing and to serve the public interest with quality programming. Such practices appear to constitute barriers to competition and market entry. Section 257 of the Telecommunications Act of 1996 provides the Commission with the jurisdictional authority to examine and eliminate such barriers.

[51] *See also,* NonDiscrimination in Advertising Act of 1991, H.R. 285, 102nd Cong., 1st Sess. (1991), (Appendix B) (bill intended to deny tax deductions for advertising expenditures for persons who discriminate against minority owned or formatted communication entities in the purchase or placement of advertisements).

[52] U.S. Government Accounting Office, Federal Use of Small Disadvantaged Subcontractors is Minimal (GAO/RCED-89-54), June 1989.

In the private sector, CRF recommends:

- The broadcast and advertising industries should develop a code of conduct for advertisers, their representatives and broadcasters. The code should indicate that decisions about buying ads should be based on market research supplied by accredited ratings services. It should require broadcasters and advertising representatives to prominently disclose whether the research upon which they are relying is accredited by the Media Ratings Council. Such research should take consumption patterns into account. The code should prohibit the practice of "no Urban/Spanish dictates" and "minority discounts." It should require that stations be evaluated based on their individual merits, including their audience ratings and demographics. The code should require workforce training regarding laws prohibiting unfair or deceptive disparagement of a competitor, and training regarding diversity. The code should encourage diversity in hiring. All employees, regardless of race/ethnicity or gender, should receive training and work experiences that may lead to promotion.

4. Serving the Public Interest

The issues discussed in this study ultimately affect the quality of programming made available to the listening public. To the extent that advertising practices constitute barriers to competition, broadcasters are less capable of providing a diverse range of viewpoints and a plethora of high quality programming choices. Congress, the Courts,[53] and the FCC[54] have repeatedly expressed concern that a diversity of viewpoints must be reflected in the broadcast media. Indeed, this investigation of barriers to competition is an outgrowth of Congressional policy "favoring diversity of media voices, [and] vigorous economic competition."[55]

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[53] *See, Associated Press v. United States*, 326 U.S. 1, 20 (1943) ("[The First Amendment] rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public....") *See also, Metro Broadcasting, Inc., v FCC*, 497 U.S. 547, 568 (1990), (overruled on other grounds, *Adarand Constructors*, 515 U.S. 200). In *Metro*, the Court commented,"[T]he diversity of views and information on the airwaves serves important First Amendment values....The benefits of such diversity are not limited to the members of minority groups who gain access to the broadcasting industry by virtue of the ownership policies; rather, the benefits rebound to all members of the viewing and listening audience." *Metro Broadcasting Inc.,* 497 U.S. 547 at 568.

[54] *Statement of Policy on Minority Ownership*, 68 FCC 2d 979, 981 (1978) ("Adequate representation of minority viewpoints in programming serves not only the needs and interests of the minority community but also enriches and educates the non-minority audience.")

[55] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat 56 (1996), 47 U.S.C. § 257(a) &(b). ("[In] identifying and eliminating...market entry barriers....the Commission shall seek to promote the policies of this Act favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.")

The public interest consequences of "no Urban/Spanish dictates" and "minority discounts" are eloquently stated by Tom Castro, Chairman and President of El Dorado Communications:

> *1) Because of the discounts, sometimes you can't compete and keep your best people. And that leads to a brain drain. We do the hard work of training them, and then they go off and work for these larger companies...; 2) Our profits are less. If our profits are fewer, then when it comes time to buy the station that comes up for sale in a given city where we're competing with CBS and Clear Channel and ABC, they're going to be able to outbid us for those properties because of the profits that they have built up over time. And so that means they have yet another scarce frequency that they control, and we are losing the opportunity to build wealth for ourselves. 3) The quality of our programming, while good, would be better if we had more profits. If we had more profits we could invest that back into our business. So, it's harder to remain competitive and it's harder to promote your format to the public.... It's a vicious circle.*[56]

The "vicious circle" described by Tom Castro affects all broadcasters that target programming to minority listeners. However, minority broadcasters appear to be affected in disproportionate numbers.

The vast majority of stations owned by minority broadcasters provide programming designed to serve the needs of minority listeners (see Chart A). Seventy-five percent of all stations owned by minorities are classified as minority format.[57] In contrast, 8% of stations owned by majority group members are classified as minority format (see Chart A). Majority owners control 267 minority-formatted stations, compared to 116 owned by minorities. However, the greater tendency of minority owners to serve the minority community[58] means that practices such as "no Urban/Spanish dictates" and "minority discounts" have a disproportionate effect on minority broadcasters.

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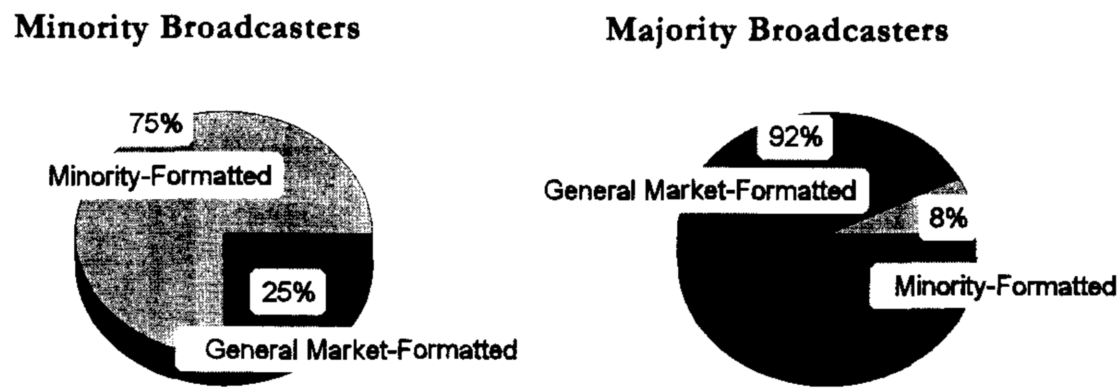
[56] Telephone interview with Tom Castro, Chairman and President of El Dorado Communications, December 14, 1998.

[57] As discussed in footnote 210, many minority-owned broadcasters that identify their stations as general market format have high levels of minority listeners. They may be self-designated as "gospel" or "religion," but their audience is predominantly minority.

[58] *See also, Metro Broadcasting,* 497 U.S. 547, 580-581 ("Evidence suggests that an owner's minority status influences the selection of topics for news coverage and the presentation of editorial viewpoint, especially on matters of particular concern to minorities.") The FCC's Office of Communications Business Opportunities is undertaking a study to examine the current linkages between minority ownership and broadcast content, focusing on news and public affairs programming.

Chart A

% of Stations with Minority or General Market Format by Owner Race/Ethnicity



Data: BIA MasterAccess, August 1997 edition.

"No Urban/Spanish dictates" and "minority discounts" effectively reduce the revenues a station earns per listener. Consequently, such stations have fewer resources with which to serve the needs of listeners in terms of news, public affairs or entertainment programming.

The findings of this study constitute *prima facie* evidence that "dictates" and "discounts" impede market entry, access to capital, competition and diversity of viewpoint. The findings of this study warrant further research. Based upon the conclusive findings of follow-up research, the Commission should decide whether to exercise its jurisdiction to eliminate market entry barriers caused by "no Urban/Spanish dictates" and "minority discounts."

Appendix A .....Overview of Media Planning

Overview of Media Planning
by Kofi A. Ofori

Advertisements are delivered to consumers via a media mix of newspapers, television, cable TV, radio and magazines. Radio is just one of many mass media vehicles that are capable of delivering an advertisement message. An important role for the media planner is to determine when radio should be utilized based upon its entertainment or informational appeal to consumers. In conjunction with ad agencies, media planners also determine which radio format(s) are optimally suited to convey an advertisement to the targeted audience. Hence, decisions made by media planners, ad agencies, and other marketing executives determine the fate of radio stations in a very practical way.

The process of media planning, however, does not begin with media buying. Determining the role of radio in a media mix is the outcome of a series of decisions that begins with an assessment of the marketing problem (e.g. company sales have been slipping due to increased market penetration by a competitor). Next, a marketing strategy is devised followed by the adoption of a creative strategy. Media planners have very little to do with the development of these components of the media plan. Usually marketing and marketing research people conduct the situation analysis and prepare the market plan. Copywriters and art directors are responsible for the creative strategy. Media planners begin their work once the marketing plan is in place and focus upon developing the media objectives and overseeing media buying.

The following is intended to provide an overview of the decision-making process involved with media planning. It will also explain the practice of buying commercial time on radio formats that have audience demographics that match those of the target market.

Media Planning in Six Steps

The goal of media planning is to link media buying decisions with marketing objectives. If advertisers and ad agencies neglect marketing objectives when buying commercial time, money is spent ineffectively. Media buying should be the end result of a logical sequence of steps that begins with an assessment of the advertisers marketing problems, a set of marketing objectives that address the problems identified, a profile of the consumer target, and a media mix and creative theme that will deliver the targeted consumer.

The following table illustrates a logical sequence of steps that should be involved with media planning.

Logical Progression of Steps in Media Planning

1.Marketing Objectives	**2.Marketing Strategies**	**3.Media Objectives**	**4.Media Strategies**	**5. Decisions Implementing Strategies (Tactics)**	**6.Media Buying**
A number of marketing goals for a given brand, presumably, based on best opportunity for sales or solving other marketing problems.	A number of broadly conceived marketing decisions, organized into a unified plan of action aimed at attaining marketing objectives.	A number of media goals, all related in some way to helping attain market objectives, or related to marketing strategy.	A number of broadly conceived media decisions, organized into a unified plan of action aimed at attaining media goals.	A number of very specific decisions that implement the media strategy. In many instances, these decisions serve as a basis for media buying.	Actual purchasing decisions involving the selection and use of media.
Example Increase brand share of market by 5 percent over last year, nationally.	**Example** Concentrate on winning customers from competitors by using ads that show ways in which our brand is better than theirs.	**Example** Plan media selections to deliver at lest 80 percent of both our and competitors target markets (targets are defined demographically).	**Example** Frequency goal: 4.5 use network TV, day and late fringe, spot TV in top 30 markets. Use: 30s. Buy 600 gross ratings points in spot markets.	**Example** Eliminate newspapers, spot radio, spot TV, and billboards from consideration. Use network TV or magazines. Find which gives 80 percent net reach of target at lowest cost per thousand.	**Example** Make purchase of best alternative media according to the specifications laid down in strategy and tactical plans, and according to any other specifications (e.g. creative requirement)

In practice, however, media buying does not always follow the company's plan. For example, cost considerations may overshadow objectives set forth in the media plan. Or, the so-called "media plan" may merely consist of a set of loosely organized decisions. In such instances, the interests of the advertiser are not well advanced.

Matching Media with Targeted Markets

One of the goals of media planning is to make efficient use of marketing resources. In order to do this, advertisers strive to allocate advertising budgets to media with audiences that closely parallel their target market. The closer the match between a media vehicle and the market target, less money is wasted on delivering messages to consumers for whom the product is not intended. Hence the need to match market targets with appropriate media vehicles.

During the past decade, market research has become increasingly sophisticated in terms of identifying targeted markets. Three types of variables are used to define a market target: demographics, socio-psychological and product usage. Demographic variables include age, sex, race, income, education, occupation, marital status, family size, locality etc. As the number of demographic descriptors increases the more narrow the target market. Marketing executives strive to achieve a balance between precision and size, such that the market is not so narrowly defined that it excludes a significant number of people likely to buy the product.

Under the socio-psychological umbrella there are lifestyle and psychological variables. Psychological characteristics include leadership, compulsive, aggressive, conformist behavior, and need achievement. Such data enable copywriters to create a message that appeals to a consumer's psyche. Lifestyle data tells an advertiser how a prospective customer uses their leisure time, what kind of entertainment they enjoy, and the extent of their community involvement.

Product usage variables generally fall into four segments: heavy users, medium users, light users, and non-users. Market objectives that seek to increase consumption find product usage data especially useful. There are no hard and fast rules for guiding advertisers about whether to pursue heavy, light or non-users. Industry growth or a brand's position in the marketplace may justify investing in promotion among light and non-users.

Two examples of target market descriptions are:

Glenfiddich Scotch Whiskey (William Grant & Sons, Inc.)- males, aged 25 to 49, with household incomes of $40,000 or more. In addition, they are people who are constantly searching for "premium" products, new experiences. They love challenges and new experiences.
An important characteristic of these customers is that they believe they have specific criteria for judging the quality of Scotch whiskey. They believe they can accurately evaluate the

"smoothness" of Scotch whiskey, and that smoothness is a surrogate for quality.

Long Term Disability Insurance (New York Life Insurance Company) – "male, white-collar professionals, between the ages of 25 and 45, who understand that illness, not an industrial accident, is the biggest threat to family breadwinners."1

In addition to market research on product consumption, millions of dollars are spent annually to obtain profiles on the viewing/listening habits of consumers. The following profile, prepared by Mediamark Research, Inc. (MRI), describes the media habits of frequent flyer travelers.

Demographics: males age 25 to 54
Product Usage: flying 6 or more times per year
Media Habits:

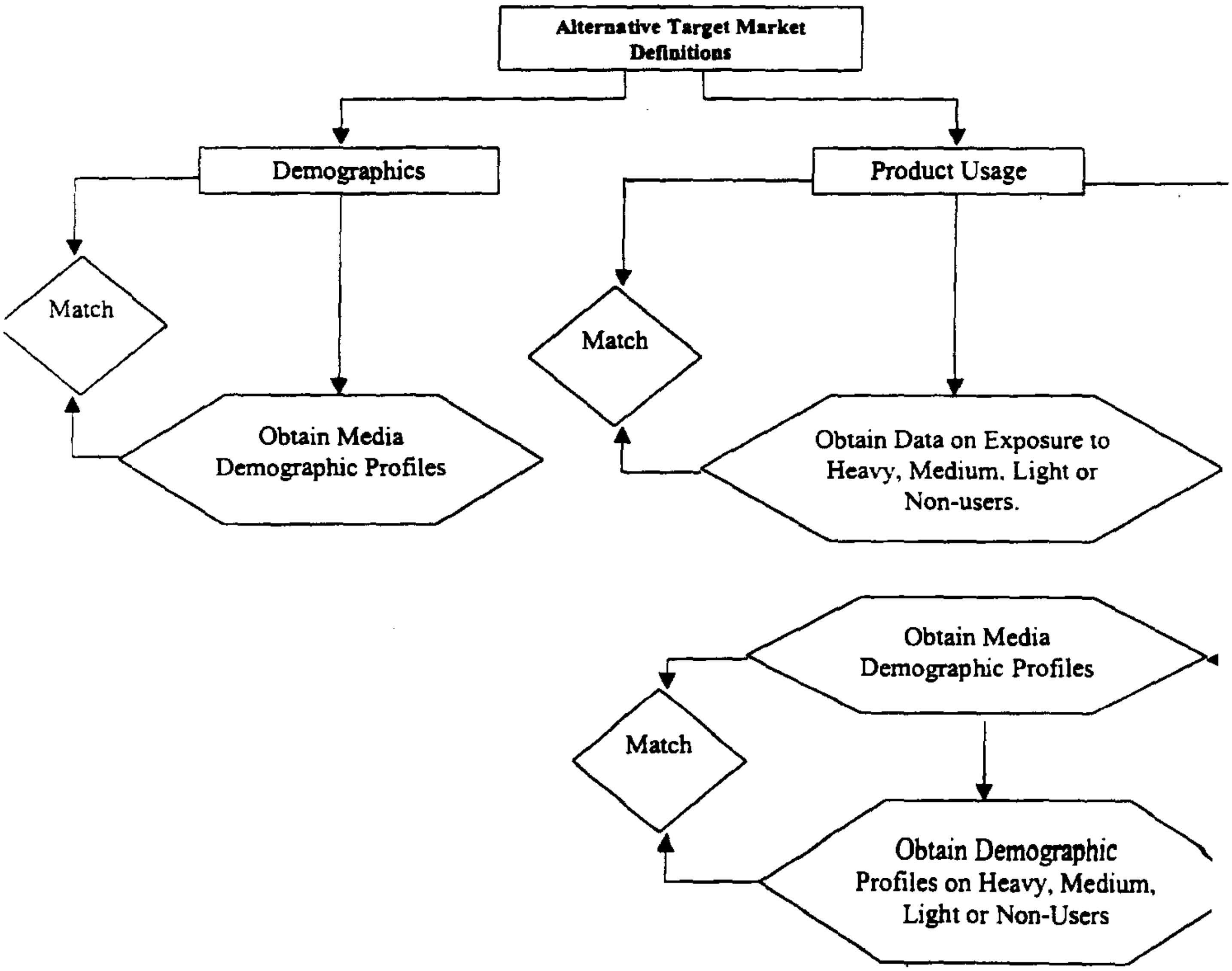
More likely to	*Less likely to*
Listen to: Adult Contemporary, All News, Classic Rock, Classical, News/Talk	*Listen to:* Album-oriented rock (AOR), Country
Read magazines on: business, computers, cities, news, science, sports, travel	*Read magazines on:* fishing, mechanics
Watch: baseball specials, basketball specials, news, general drama primetime, golf or tennis,	*Watch:* adventures/westerns, comedy/variety pageants, detective/suspense, situation comedies,
Own home computer	*Own truck*
Drink imported beer	*Drink domestic Beer*
Own American Express Gold Card	

1 . See, James W. Taylor, How to Develop a Successful Advertising Plan, NTC Business Books (1993) at 75.

In order to make cost efficient use of the media, the characteristics of various radio and television audiences are compared with the target market definition in order to come up with an appropriate match.

As summarized by the following diagram, different approaches are used to link market targets with related media.

Diagram A. Alternative Approaches to Matching Media with Market Prospects



See: Essentials of Media Planning, Second Edition, NTC Business Books 1987.

The approaches include: a) selecting the station(s) whose audience most closely approximates a demographic profile (e.g. white, male, college educated); b) selecting the station that is listened to by a targeted audience defined in terms of product usage (e.g. heavy and moderate users); and 3) ascertaining the demographic profiles of the radio audience and match them with the demographic profiles of heavy, medium, light or non-users.

Buying Radio

Although radio does not offer the visual impact of television, it does offer advertisers the ability to reach targeted audiences with frequency and at relatively lower cost. Radio is more local oriented compared to television. During 1995, nearly 95 percent of radio's advertising dollars came from spot sales bought on individual stations on a market-by market basis. Levels of radio and television listening also complement each other; radio listening is at its highest in the morning, while TV's highest listening is in the evening.

Both radio and television contain formatted programming (e.g. daytime serials, games. sports and news for TV versus urban, country, classical, rock for radio). Radio, however, maintains a consistent format throughout the broadcast day, and therefore tends to attract a loyal audience following. Radio is useful to advertisers interested in targeting specific consumers and taking advantage of the local appeal of the medium.

In order to buy commercial time the media planner must know: a) the market and media objectives; b) the demographics and other variables concerning the target market; c) the number of people to be reached with the advertisement (**reach**); d) how often they are to be reached (**frequency**), e) the time periods, and f) the budget.

Reach is generally expressed as a percentage of the number of individuals or homes in the community (e.g. forty percent of the New York market) and denote the number of different people exposed at least once to an advertisement within a given time period. **Frequency** is the average number of times that individuals (or homes) are exposed to the advertisement.

Reach multiplied by **frequency** equals the duplicated percentage of the audience that will be reached, commonly referred to as the **gross rating point** (GRP). If, for example, the population base of a community is 10 million, and 7.5 million people, or 75 percent, receive on average three exposures to an advertisement, the **GRP** is 225% (3 x 75%=225%).

One additional kind of information required by the media planner is the **continuity**, the timing of the media scheduling. This could be either constant or periodic advertising throughout the campaign period.

The following example summarizes the information needed by the media buyer.:

Media Objective	Reach and Frequency	Continuity
Concentrate message delivery toward users of dry cat food, with primary emphasis on women, age 25 to 54, who live in metro city and suburban areas, and who have household incomes of 20,000+. The psychographic profile includes current user of Brand C who have high emotional involvement with their cats, consider their cats as a good friend or companion, and take pride in and get satisfaction from their cats	Achieve a minimum level of 75 % reach against the target market with an average frequency of 3.0 over an average four-week period. The GRP target is 225.	Maintain competitive levels of frequency throughout the year in an effort to work in conjunction with flat seasonality.

Armed with this information a buyer is prepared to enter negotiations for the purchase of commercial time. Given a **GRP** target, a buyer examines the ratings and formats of all the radio stations in a particular market. The ratings of the stations selected to carry the advertisement must total the **GRP** target. Secondly, the demographics of the station's listeners must be consistent with those of the targeted market.

Ratings, like **GRPs**, are a percentage and simply indicate the proportion of individuals in a community that are tuned to a particular station. In the following example, each of the radio stations have a rating ranging from 3 to 8 percent. The rating of each station multiplied by the number of announcements provides each station's contribution towards the overall target of 225 GRPs.

Table A			
	Ratings (%)	# Announcements	GRPs (%)
Station A	4	9	36
Station B	5	10	50
Station C	5	9	45
Station D	4	6	24
Station F	8	5	40
Station G	6	5	30
Totals		44	225

In order to keep the cost of a media campaign within budget constraints, buyers often calculate the **cost-per-rating point**, or what it costs to advertise to 1 percent of the audience within a given market. The **cost-per-rating point** is an estimate that varies from market to market and from station to station. As a preliminary idea of the cost of commercial time, it enables a buyer to estimate how many people they can reach for a given budget. The **cost-per-rating point** is also a starting point for negotiations with radio stations.

Sources for the **cost-per-rating point** for particular markets are estimator books published by advertising agencies and other organizations.2 Other factors that influence the final price of advertising time include daypart, ratings, discounts, preemption,3 and program format.

2 . Examples include Media Market Guide published quarterly by Media Market Resources, Inc

3 . Preemptible spot discounts can be purchased with the understanding that the commercial can be preempted by another advertiser paying the full price.

Station format and ratings, more than any other factors, determine whether a station will be included in a buy. Formats consist of entertainment and informational programming designed to appeal to a particular audience segments (e.g. upscale young adults). The buyer will be concerned about whether the format of a particular station appeals to consumers who use their products or can be persuaded to use their products. If not, the station may be excluded from the buy or bought for a lower price. Stations, advertisers and ad agencies invest heavily in qualitative research that provide demographic, lifestyle and product usage data about radio audiences according to format. Examples of services that provide such data are the Media Audit[4] and Scarborough.5

By definition **gross ratings points** only specify a level of exposure to a station's signal; it does not adjust for multiple exposures to an advertisement. Therefore, when buyers are negotiating a final price the central concern is how many *different* people will hear the advertisement. **Cume rating**, or the *unduplicated* size of a radio station's audience, has a great bearing upon the buying decision-making process. Data on levels of listening for radio stations are provided by companies that also publish qualitative data (e.g. The Arbitron Company).

In theory, the cost of radio buys is fixed. Stations have rate cards that list the price of commercial time based upon the length of the advertisement (e.g. 30 sec., 60 sec.). Some prices permit preemption while others are guaranteed. Published discounts permit cost savings based upon volume purchases, daypart, and two or more station combination purchases.

In practice, the cost of commercial time is negotiated. Rate cards serve as mere guidelines. Typical negotiations between buyers and radio station salespeople begin with a discussion of the **cost-per-rating point**. The **cost-per-rating point** approach permits the buyer to concentrate upon achieving a particular **reach** objective. Assuming, for example, that the **cost-per-rating point** for the Detroit market is $300 (i.e. $300 to reach 1 percent of the population), then the budget for achieving a GRP target of 225, as illustrated in Table A, would be $67,500.

The buyer will entertain bids from all stations in a market that have listening audiences with demographics that approximate the target market before making a decision. The buyer will negotiate for the least amount of money for the commercial time. Station salespeople seek to get the highest price without disclosing their total amount of inventory (thus preventing the buyer from knowing how low a price the commercial time is worth). After receiving price bids from several stations, the

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4 . Published by International Demographics, Inc.
5 . Published by The Arbitron Company.

buyer may negotiate for lower prices or certain types of promotional concessions. The latter might consist of a sweepstakes contests or remote site broadcasts from the advertiser's place of business. Once all of the complex set of factors, including daypart, are evaluated the final prices and terms are agreed to and the buy is made.

Buying Time on Minority Formatted Radio

A small percentage of the commercial time that is purchased on stations that target the Hispanic and Black audiences is bought on the basis of the Hispanic or Black cost per rating point. Costs per rating points for Hispanic and Urban formatted radio are published by The Arbitron Company. Normally, the price paid for an advertisement is based upon a station's rating for an entire metro market. The Hispanic and Black rating point is based upon a station's rating for the Hispanic or Black population.

For example, urban formatted station WXYZ may have low penetration for an entire metro market which may include surrounding suburbs and extend to neighboring states. But its rating for the Black population, concentrated in the urban neighborhoods, may be very high. Cost per rating point, as discussed earlier, is what it costs to advertise to one percent of the population. Therefore, the cost to advertise to one percent of the entire metro market versus one percent of the Black audience is based upon entirely different population bases. The Black population base may be relatively small, but the ratings for an urban formatted station for the Black population may be very high. It is not unusual for a station to reach 30 percent of the entire metro market and 80 percent of the Black market.

The actual number for the Black cost per point may be low compared to the general market cost per point. But, because a station, such as WXYZ, has many more rating points for the Black population, the price that it will receive for a 60 second spot is equal to if not greater than one based upon the general market cost per point. Purchases based upon the Black cost per point are estimated to account for only five to ten percent of the advertisement revenues of urban formatted stations. The body of this study concerns the remaining 90 percent of minority formatted revenues which are reported to be discounted to a substantial degree.

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